

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MATTHEW CATANZARO and
MICHAEL GARRISON,

No. 08-11173

Plaintiffs,

District Judge Thomas L. Ludington

v.

Magistrate Judge R. Steven Whalen

MICHIGAN DEPT. OF CORRECTIONS,

Defendant.

REPORT AND RECOMMENDATION

Before the Court is Defendant Vercilla Hart's Motion to Dismiss Plaintiff Garrison's Claims from the Complaint [Docket #84], based on an injunction issued against Plaintiff Garrison by the Honorable Robert Holmes Bell of the United States District Court for the Western District of Michigan on February 7, 2008. Judge Bell enjoined Plaintiff Garrison from "filing or participating in any civil action in this court as a co-plaintiff." In her motion, Defendant Hart specifically adopts and incorporates her co-defendants' motion [Docket #63], based on the same grounds.

On June 17, 2009, I filed a Report and Recommendation in Docket #63, recommending that the motion be denied because the Sixth Circuit had vacated Judge Bell's injunction. *See Michael David Garrison, et.al. v. Michigan Dept. of Corrections, et.al.*, 2009 WL 1491463 (6th Cir., 5-28-09), Sixth Cir. No. 08-1222. On July 14, 2009, the District Judge adopted my Report and Recommendation, and denied the co-defendants' motion. *See* Docket #113. However, in my Report and Recommendation, I neglected to include Defendant Hart's motion.

Therefore, I NOW RECOMMEND that Defendant Hart's motion to dismiss

[Docket #84] be DENIED for the same reasons set forth in my previous Report and Recommendation, and also because the Court's order in Docket #113 is law of the case.

Any objections to this Report and Recommendation must be filed within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. §636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Secretary of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

s/R. Steven Whalen
UNITED STATES MAGISTRATE JUDGE

Dated: August 31, 2009

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on August 31, 2009.

s/Susan Jefferson
Case Manager